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April 7, 1997

William F. Caton, Acting Secretary
Federal communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: MM Docket No. 96-120
Ex Parte Comments

Dear Mr. Caton:

In accordance with the provisions of Section 1.1206(a)(1) of the Commission's rules, there is transmitted herewith in duplicate the Comments of Press Broadcasting Company in the above-referenced notice and comment rule making proceeding dealing with grandfathered short-spaced FM stations. Copies of the Comments are being served simultaneously upon the Commission personnel listed below.

Should you have any questions concerning this matter, please contact the undersigned.

Very truly yours,

Alan C. Campbell

Encs
cc/enc Mr. Dennis Williams - Room 332
Mr. James Bradshaw - Room 332

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In the Matter of	)	
	)	
Grandfathered Short-Spaced FM Stations	)	MM Docket No. 96-120
	)	RM 7651
	)	

To: The Commission

COMMENTS OF PRESS BROADCASTING COMPANY

Press Broadcasting Company submits its Comments in the above captioned proceeding. Press is the licensee of two grandfathered short-spaced stations, WKXW(FM), Trenton, New Jersey and WBSS(FM), Millville, New Jersey, which are identified in the Reply Comments filed by the National Association of Broadcasters ("NAB").

Co and First Adjacent Channels. Press agrees that the change with respect to co and first adjacent channels from the current rule to the proposed desired-to-undesired signal ratios affords a necessary degree of needed flexibility while providing core interference protection for short-spaced stations. Press supports the relief in this regard suggested by the Notice of Proposed Rule Making provided that this relief would not be used to dramatically shift the area between stations in which the short-spacing occurs. In order to address this concern, the existing azimuth between short-spaced stations where the maximum short spacing occurs could be used as a fulcrum to limit the potential impact by not permitting the maximum short-spacing to shift more than, for example, 1.5 miles, from the maximum short-spacing azimuth.

The argument has been made that relief is warranted, in part, due to the likelihood that some FM stations will be required to seek tower relocations with the advent of HDTV, a

problem that is acerbated by the fact that zoning authorities and community sentiment are not making it any easier to find new tower sites at a time when telecommunications services are expanding dramatically. However, while the advent of HDTV may force a few FM stations to relocate their antennas, Press' observation is that fewer FM antennas are located on TV towers than postulated in this proceeding and HDTV will not necessitate a wholesale relocation of short-spaced FM stations. Certainly, Press is not aware of any firm evidence as to the number of FM stations that will face an urgent need for new tower sites due to the advent of some form of digital television.

One commenter, Mullaney Engineering, Inc., proposed that the Commission revisit the protected contour for Class B and Class B1 FM stations and establish the 1 mV/m contour as the protected contour for all classes of stations. This concept was rejected by the Commission in its Notice (Par. 15) and was recently considered in depth and rejected by the Commission in the Class A proceeding, *MM Docket No. 88-375*. Therefore, the protected contour for Class B and Class B1 stations should not be reconsidered here and the Commission should continue to protect such stations to their 0.5 mV/m and 0.7 mV/m contours, respectively.

Second and Third Adjacent Channels. While the bulk of commenters in this proceeding support the Commission's proposal to return to the pre-1987 policy of disregarding second and third adjacent channels in considering short-spacing situations,[1] Press submits, like NAB, that a degree of caution is the better course. Rather than discard concern for second and third

[1] Although it may be clear that it is the Commission's intent, Press assumes that the proposals in the Notice do not contemplate the situation in which new short-spacings (whether co, first, second or third) would be created. The Commission should make this point clear in its final decision.

adjacent channels entirely by rule, the Commission should continue to consider such proposals on a case-by-case basis. For example, Kelsho Radio Group, Inc. ("Kelsho") filed Ex Parte or Late Filed Reply Comments received at the Commission on January 22, 1997, which highlight the approach suggested by Press. The situation facing Kelsho would seem to warrant the type of *ad hoc* relief favored by Press so that meritorious waivers would still be grantable,[2] but only after the Commission has the opportunity to examine the facts, which it would not be able to do if a fixed rule is adopted.

While administrative ease would appear to be served by adopting a fixed rule that would ignore second and third adjacencies, situations will arise where short-spacings involving second and third adjacent stations warrant the individual attention required by the application and waiver process. Indeed, Press anticipates that many such applications could be granted; however, routine grants in anomalous situations that are not anticipated by a blanket revision of the rules would be avoided. Moreover, the possible administrative burden may be less than suggested by this proceeding, since as noted above, fewer FM stations may be displaced by HDTV than suggested by some of the comments in this proceeding.

Therefore, Press supports the more cautions approach advocated by NAB, rather than a return to the earlier rule of disregarding second and third adjacent short-spacings, although it is not clear that the NAB's four steps are the best or only alternative. One factor that must be noted, as reflected in the NAB study and confirmed by Press' experience, is that car radios are generally of sufficient quality to minimize interference concerns, but the quality of normal table-

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[2] For example, according to Kelsho 's Reply Comments, its short-spaced station would serve 34,000 more listeners, while causing predicted interference to only 50 more listeners representing 0.0004% of the second adjacent station's listenership.

top and "Walkmen-style or portable radios, which still comprise a substantial percentage of the radio market, are not as technologically sound and will generally not eliminate concerns with potential second and third adjacent channel interference. Therefore, Press supports NAB's position that the Commission should not eliminate concern for second and third adjacent short-spacings entirely.

Finally, the radio market has changed dramatically, making a return to the former policy of disregarding second and third adjacent short-spacings a much greater concern. The old rule was imposed at a time when FM stations had no ratings and few if any listeners; now the bulk of radio listeners select FM and FM stations have built up audience over the years based on the existing separations. Such listeners would not easily accept, and should not be forced to accept, substitute FM services.

Wherefore, Press respectfully requests that the Commission accept and consider its late-filed Comments in this proceeding.

Respectfully submitted,
PRESS BROADCASTING COMPANY

By: _____
Robert M. McAllan, President

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March 26, 1997